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EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/824,105	<b>Applicant(s)</b> WALDEYER, ANTOON WALTER	
	<b>Examiner</b> Jean Janvier	<b>Art Unit</b> 3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 4-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **Response To Applicant's Arguments**

First of all, the amendment made to the claims in an attempt to overcome the requirement was not entered and thus, new claim 18 will not be considered.

Second, the Examiner has fully reviewed the Applicant's remarks regarding the restriction requirement and has concluded that the Applicant's remarks or arguments are not persuasive for the reasons spelled out in the original restriction requirement. Upon further review of the claims, claim 4 is being withdrawn from further consideration for presenting a subject matter that does not further limit independent claim 1, wherein the said subject matter is different from the one disclosed in claims 1-3. Indeed, claim 4 discloses conducting a lottery draw using the stored identities, wherein the lottery prize is equal to all the amounts or donations received by the receiver. For these reasons, the Examiner believes that claim 4 has nothing to do with the invention presented in claims 1-3.

### **Detailed Action**

#### **Specification**

The title of the invention is not descriptive so as to help one having ordinary skill in the art understand the nature of the subject matter. A new title is required that is clearly indicative of the invention to which the claims are directed. The title of the invention should be placed at the top of the first page of the specification. Furthermore, the abstract should not exceed 150 words (ca. 15 lines). See 37 CFR 1.72 and 1.76.

### **Claim Status**

Claims 1-17 were originally presented in the Application. Claims 1-4 were elected, with traverse, for prosecution on the merits. Claims 4-17 are herein being withdrawn from further consideration pursuant to 37 CFR 1.142. Thus, claims 1-3 are herein being examined.

### **Claim Objections**

Claim 1 is objected to because of the following informalities-

Concerning claim 1, line 17, "the incoming call" should apparently be --an incoming call--.

Further, **upon** reviewing claim 1, it appears that the metes and bounds of the claims are not well defined. It appears that the claim discloses a method wherein a data processing entity, such a telephone company, agrees to donate a portion or a fraction of the cost charged to a caller or call originator for making a call to a receiver (call receiver or called party). Here, the agreement is not between the call originator, who plays no role except for making or triggering an incoming call, and the data processing entity. There is no surcharge or extra charge associated with the incoming call and the caller does not contribute or donate any money to the receiver. Rather, the telephone company or data processing entity decides to donate to the receiver (perhaps called party) a fraction (amount left) of the cost charged for an incoming call after calculating or subtracting its operational cost.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 1 (including dependent claims 2-4) is rejected under 35 USC 112, second paragraph for reciting the limitation "said originator". There is insufficient antecedent basis for this limitation in the claim. The Examiner assumes that the Applicant meant to refer to a - -an originator--.

Claim 4 is rejected under 35 USC 112, second paragraph as being indefinite for reciting the auxiliary verb "can". Here, "can" will be interpreted as --capable of--.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziarno, US 2001/0001855.

As per claims 1-3, Ziarno discloses a method of and a system for conducting a fund-raising over a computer network, such as the Internet, while simplifying and inducing the giving of monetary contributions by a plurality of contributors or donors. The system is configured to solicit the making of monetary contributions by the plurality of contributors or donors via their computers and to receive data comprising of contributions records from the remote contributors

over the computer network. Here, contributions include political contributions, charitable contributions and religious contributions. The soliciting or requests for monetary contributions is performed via multimedia communicated to prospective contributors' computers connected to the computer network (See abstract).

The present system provides a fund-raising network, system and method for simplifying and inducing the giving of monetary contributions by a multiplicity of prospective contributors. The system and network include a computer with communication circuitry for communicating over a computer network requests soliciting the making of monetary contributions to a plurality of remote prospective contributors' computers; and, a means for receiving contributions from the remote contributors' respective computers communicated over a computer network. The contributions data, received from a prospective contributor, include the prospective or respective contributor's cardholder information (credit card, debit card data) correlated to numeric contribution amounts, cybercash, information representative of electronic currency, and combinations thereof (bottom of page 1, paragraph [0010]; page 5, paragraphs [0054] and [0055]).

A typical solicitation or prospective contributor's e-mail contribution request or has a display option or icon that represents a specific denomination amount, e.g. five dollars (\$5) or ten dollars (\$10). The specific denomination amount appearing on a respective contributor's screen is of an order to induce the making of a contribution in a variant (allowing the prospective donor to choose from a variety of options representing selection of different action-specific amounts....-page 6: paragraphs [0059] and [0060]; page 8: paragraph [0078]).

As per claims 1-3, Ziarno does not disclose a system, wherein a contributor or donor uses a telephone set, instead of or in addition to a computer, to participate in the fund-raising activities by making donations in an interactive manner.

However, it is common practice in the art to use a wired or wireless telephone to participate in a fund-raising activity, which raises money on behalf of a specific non-profit organization. For example, a Public Broadcasting Station (PBS), such as a television station, usually conducts an annual fund-raising by soliciting the making of monetary donations from its viewers, who use their telephones to respond by donating a specific monetary value set by the station or a value of their choosing. The donors or contributors receive thank-you gifts from the station from other third parties for making donations.

“Official Notice”

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure (“Official Notice”) into the Ziarno’s fund-raising system so as to expand the system by enabling users of regular analog or fixed phones and mobile devices, instead of or in addition to the remote personal computers, to interactively participate in the fund-raising activities by contributing or donating monetary amounts selected from a plurality of preset thresholds or by entering different amounts of their choosing in a manner analogous to the use of the remote computers, thereby significantly increasing the number of donors participating in the fund-raising activities, over the computer network, by pledging or donating money to their charities using their existing communication devices such as analog or mobile devices.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2005/00240433 to Schwartz discloses a system and method for efficiently conducting a fundraising campaign over a wide-area network. In accordance with the invention a method for conducting an efficient fundraising campaign by an organization over a wide-area network includes the steps of hosting a website including a plurality of linked web pages, the website soliciting potential donors to make a charitable contribution to the fundraising campaign, registering, by the donors, on the website, making a charitable donation on the website, contacting third parties via email messages soliciting charitable donations, and providing one or more reports, on the website, including information on the status of the fundraising campaign. The method further comprises the step of contacting third parties, via email messages, to provide information about one or more teams participating in a competition associated with the fundraising campaign. The method further comprises the step of providing information, in the reports, about the third parties that have been contacted via email messages. The method further comprises the step of providing, in the reports, a real time status of the fundraising campaign, and wherein the real time status provide a convenient means for monitoring the progress of the campaign. The method further comprises the step of joining a team, on the website, to participate in the fundraising campaign. The method further comprises the step of forming a new team, on



the website, to participate in the fundraising campaign. The method further comprises the step of recruiting new team members by email messages.

US 2001/0026609 to Weinstein discloses a method and apparatus for facilitating web-initiated communication by telephone, providing for both anonymous and non-anonymous communication, which allows users to contact each other through a trusted central connecting facility provides breakthroughs in personal control, privacy, and safety for people communicating over the telephone. All calls are incoming calls, both to callers and call recipients. Users may control what time windows they can receive calls from other users, on an individual basis. Billing for professional services delivered over the phone may be done automatically through the call delivery system. Both one-to-one and group calls are provided. An auction feature allows customers to bid for phone time with desired personalities. Calls may be scheduled to happen automatically at pre-arranged times. Use of PIN codes prevents unintended recipients from receiving a call. Users may generate temporary contact number cards which can be given out to people they meet, such that calling access will be controllable and traditional contact information (such as phone number and address, full name, etc.) can be kept private. Users may sign up for paid accounts or free accounts. Free accounts may only receive calls and make collect calls. Applications include dating websites, on-line greeting cards with a phone call contained, phone connection during on-line chat, customer service, time-controlled phone contact for on-line auctions, supplemental long-distance and international calling, and fund-raising.

US 2002/0116215 to Lawrence discloses a fund-raising method and system relating to the planning and administration of fund-raising events such as live auctions, on-line sales, and on-line auction events. In a preferred aspect, a centralized Web site accessible by network users is provided and maintained for hosting on-line fund-raising auctions of goods or services in the name of fund-raising entities, where the goods or services are not owned or provided by the fund-raising entities, and preferably are provided or owned by the host of the fundraising event or host of the Web site. The goods or services are auctioned to users visiting the Web site, payment from a user successfully bidding on a good or service for auction is received and a portion of the payment preferably is allocated to the fund-raising entity. A rebate may be provided to the fund-raising organization proportional to a total amount of revenue generated during a fund-raising event, the rebate may be applicable to the cost of future fund-raising events. A communication network-based system and software program for implementing the present invention are also disclosed.(See abstract).

US 2002/0073026 A1 to Gruber discloses a system and method for on-line, interactive fundraising over a wide-area network is provided. The method includes hosting an organization's website including a plurality of hyperlinked web pages, displaying one or more virtual plaque web pages honoring donors, providing one or more donation and payment option web pages, the options selectable by a donor, and modifying or otherwise updating virtual plaques on the virtual plaque web pages when a donation is made. The method further includes creating a personalized donation page for the donor. The method further includes providing information about the fundraising or the organization in one or more video or audio clips. The video and audio clips

can be incorporated into any web page, such as for example, the virtual plaque or the personalized donation page (See abstract).

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

04/01/06

JDJ

Jean D. Janvier

Patent Examiner

Art Unit 3622

**JEAN D. JANVIER**  
**PRIMARY EXAMINER**  
